IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 27TH OCTOBER 2006 / 5TH KARTHIKA 1928

OP.No. 35413 of 2002(N)

PETITIONER:

K.T.BHASKARAN S/O. RAVUNNI,
KARUTHEDATH VEEDU, P.O. PALAPPETTI, PONNANI TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY**
   CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM

2. **DEPUTY TAHSILDAR (REVENUE RECOVERY)**
   TALUK OFFICE, PONNANI, MALAPPURAM DISTRICT.

3. **VILLAGE OFFICER, PONNANI,**
   MALAPPURAM DISTRICT

BY GOVERNMENT PLEADER SRI.GEORGEKUTTY MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.59813/2002 IN OP. NO.35413/2002

DISMISSED

27.10.2006 **SD/- C.N.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE APPLICATION ALONG WITH THE AFFIDAVIT ACCOMPANYING THE APPLICATION DT.16.9.2001.

EXT.P2:- COPY OF THE ORDER IN IA. 1317/2001 DT.28.1.02.

EXT.P3:- COPY OF THE DEMAND NOTICE NO.B3-5926/02 DT.24.9.02.

EXT.P4:- COPY OF THE REPRESENTATION DT.12.11.02.

.EXT.P5:- COPY OF THE MAHAZAR DT.18.11.02.

/TRUE COPY/

tss

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.35413 of 2002

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Dated this the 27th day of October, 2006.

JUDGMENT

The petitioner is challenging recovery proceedings on the ground that insolvency petition is pending and that the movables attached do not belong to him. I do not think this court should consider any of these matters because the concerned civil court has to consider petitioner's objection against recovery of arrears of sales tax on which there is no contest. So far as the claim that properties under attachment or proposed to be attached, whether movable or immovable, do not belong to the defaulter is concerned, it is a matter to be raised before the revenue recovery authority and the Tahsildar will before sale of such properties dispose of claim petition if any filed under Section 46 of the Revenue Recovery Act. The O.P. is closed with the above observation.

C.N.RAMACHANDRAN NAIR
Judge

pms